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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,857	10/16/2003	Andrew M. Hiles	HAM-100-A	1733

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EXAMINER

CHIN, PAUL T

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/686,857	Applicant(s) HILES, ANDREW M.	
	Examiner PAUL T. CHIN	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's amendment filed February 14, 2005, and the arguments presented therewith have been carefully considered. Regarding anticipated by the prior art of record, Wright (1,007,019), Autenrieth (937,564), and Vickers (with regard to 102 claim rejection) the arguments are persuasive in light of the amended claims. However, with regard to Vickers in view of Lutz (2,307,327), the arguments are not deemed to be fully persuasive. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "dragging or hanging said hook member when hooked to the game animal, fish or marine animal" (Claim 21), "the device distributes the weight to ground of the game animal when dragging" (claim 21), "an attachment to connect the hook member to a meat pole for hanging" (claim 22), and "an attachment for attaching the hook member to a saddle horn for packing out meat of the game animal" (Claim 22) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views

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of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 22 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. It appears that the limitations of claim 22 are already recited in claim 21.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen et al. (5,448,805) in view of Roberts (2,353,850).

Allen et al. (5,448,805) discloses a device comprising: a one-piece unitary hook member (26) (Fig. 3) configured in a substantially triangular shape having a first end (28) and a second end (27); the hook member (see **Exhibit A**) having a first hook portion leading to an apex corner portion, a second hook portion, a third hook portion extending to a

handle portion; said hook member is provided with a predetermined opening between said first end portion and said second end portion; the apex portion being located the opposite from the handle portion; a strap member having a fabric nylon webbing (20) (Col. 2, lines 28-34) being connected to the hook member so that the strap member function as a connection attachment wherein the end portions of the strap are folded back secured for insertion therethrough the handle portion. Note that the device distributes an equal strength when being pulled. Allen et al. device (5,448,805) does not teach that the first end (28) of the hook member has a shape end portion being tapered in the range of 30 to 45 degree.

However, Roberts (2,353,850) teaches a hook having a handle portion and a shape end portion (see Figs. 2 and 5) having a tapered end in the substantially range between 30 to 45 degree. Accordingly, it would have been obvious to modify the first end portion of the Allen et al. hook (5,448,805) to be a shape or tapered end portion as taught by Roberts (2,353,850) so that the shape end portion of the Allen et al. hook (5,448,805) would perform well to handle objects such as freight boxes, and heavy objects. It is pointed out that the modified Allen et al. (5,448,805) contains all the structural elements as recited in claims 21 and 22 while the intended use (i.e. *for dragging a game animal and for gaffing a fish or marine animal*) is not patentably significant. Allen et al. device (5,448,805) would be capable of dragging or hanging objects such as freight boxes, heavy objects, game animal, fish, or marine animal.

6. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vickers (2,541,449) in view of Lutz (2,307,327).

Vickers (2,541,449) discloses a device comprising: a one-piece unitary hook member (3) (Fig. 1) configured in a substantially triangular shape (see Fig. 2) having a first end and a second end; the hook member having a first hook portion leading to an apex corner portion, a second hook portion, a third hook portion extending to a handle portion; said hook member is provided with a predetermined opening between said first end portion and said second end portion; the apex portion being located the opposite from the handle portion; a strap member having a webbing (4) being connected to the hook member so that the strap member function as a connection attachment wherein the end portions of the strap are folded back secured for insertion therethrough the handle portion. Note that the device distributes an equal strength when being pulled. Vickers (2,541,449) does not teach that the first end of the hook member (3) has a shape end portion being tapered in the range of 30 to 45 degree.

However, Lutz (2,307,327) teaches a hook (8) having a shape end portion (16) (see Figs. 1 and 3) to penetrate meat. Accordingly, it would have been obvious to modify the first end portion of the Vickers (2,541,449) hook to be a shape or tapered end portion as taught by Lutz (2,307,327) so that the shape end portion of Vickers (2,541,449) would also perform well to handle objects such as small motors or other articles. It is pointed out that the modified Vickers device (2,541,449) contains all the structural elements as recited in claims 21 and 22 while the intended use (i.e. *for dragging a game animal and for gaffing a fish or marine animal*) is not patentably significant. The modified Vickers device (2,541,449) would be capable of dragging or hanging objects such as heavy machines, or game animals.

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7. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson (6,250,699) in view of Allen et al. (5,448,805).

Robertson (6,250,699) discloses a device comprising: a one-piece unitary hook member (18) (Fig. 1) having a first shape end and a second end and a handle portion; a strap member (22,24) having a fabric nylon webbing (Col. 2, lines 23-29) being connected to the hook member so that the strap member function as a connection attachment wherein the end portions of the strap are folded back secured for insertion therethrough the handle portion. Note that the device distributes an equal strength when being pulled. Robertson (6,250,699) does not teach that the hook member is a triangular shape. However, Allen et al. (5,448,805), as presented in section 5 above, teaches a hook member (26) to penetrate an opening of an object (29) (see Fig. 2) wherein the hook member (see Exhibit A) comprising a first hook portion leading to an apex corner portion, a second hook portion, a third hook portion extending to a handle portion; said hook member is provided with a predetermined opening between said first end portion and said second end portion; the apex portion being located the opposite from the handle portion. Accordingly, it would have been obvious to those skilled in the art to replace the hook (18) of Robertson device (6,250,699) with the hook member (26) of Allen et al. (5,448,805) so that the modified hook member would hook or penetrate a larger object. Note that Robertson (6,250,699) teaches that the first end of the hook member is shape and being tapered in the substantially range of 30 to 45 degree and it would have been obvious design choice to provide the first end (28) of Allen et al. hook (26) as a tapered end (in the range of 30 to 45 degree) to provide capability to effectively penetrate through the tight hole of an object or the body of an article.

Response to Arguments

8. Applicant's amendment filed February 14, 2005, and the arguments presented therewith have been carefully considered. Regarding anticipated by the prior art of record, Wright (1,007,019), Autenrieth (937,564), and Vickers (with regard to 102 claim rejection) the arguments are persuasive in light of the amended claims. However, with regard to Vickers in view of Lutz (2,307,327), the arguments are not deemed to be fully persuasive. Applicant argues that Vicker in view of Lutz is not understood and traversed. The examiner clearly pointed out in section 12 that claims 2,4,6,8,10, and 12 are rejected under 103 as being unpatentable over Vicker in view of Lutz. In section 9, the examiner clearly states the structure elements of Vickers's device. The first line of "Autenrieth" is mistyped and should be Vicker. However, the addition of new limitations and the combinations of previous claims still does not overcome the prior art of record, Vicker in view of Lutz.

In response to applicant's argument that "it would not be obvious to a person skilled in the art of device for hooking and dragging a game animal to look to the sling for a small motors of Vickers", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963). It is pointed out that Vickers in view of Lutz (2,307,327) contains all the structural elements as recited in claims 21 and 22 and is capable of performing the intended use (i.e. to lift or drag an animal).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Applicant's amendment (the added new limitations and the combination of previous claims to new claim 21) necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (571) 272-6922. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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